**The Hon'ble Sri Justice Nooty Ramamohana Rao**

**Writ Petition No.9197 of 1997**

**Dated 24th November 2006**

**Between:**

**1.Devalla Chennaiah and others.**

.. Petitioners

And

**1.The District Collector, Nellore and others.**

.. Respondents

**The Hon'ble Sri Justice Nooty Ramamohana Rao**

**Writ Petition No.9197 of 1997**

**Order:**

The writ petitioners, five in number, assert that they are in possession and enjoyment of an extent of Ac.9.54 cents of wet land in Survey Nos.295/1, 295/3, 295/5, 295/6 and 295/7 of Kandamur Village, Nellore Rural Mandal, and that they are sought to be evicted by the respondents without initiating any steps in terms of the Land Encroachment Act.

The writ petitioners have asserted that either they or

their predecessors in interest have been granted pattas and that they were in possession of the lands for a very long time prior to the threatened eviction by the respondents, and in fact, the Village Administrative Officer, Kandukur had issued a certificate in their favour on 10th April, 1997, vouching that the writ petitioners are in possession of the lands in question for about 19 years and that they are cultivating the same. Therefore, the writ petitioners plead that they cannot be evicted from the lands in question without initiating any action in accordance with law and that the respondents are not vested with any high handed powers to go about evicting the writ petitioners.

In the counter-affidavit filed by the third respondent-Mandal Revenue Officer, Nellore, it has been admitted that petitioners 1 to 3 have been granted pattas, but however, they are not in possession of the lands in question, whereas the petitioners 4 and 5 were not granted pattas, but they have occupied the lands in question.

The writ petitioners have now filed a reply affidavit disputing the claims made by the third respondent-Mandal Revenue Officer in the counter-affidavit with regard to the

possession of the land.

But however, the fact remains that there seems to be some doubt as to whether the actual beneficiaries of the pattas are residing and occupying the lands, or some others, who are ineligible to succeed the interest of the pattadars, are in possession and enjoyment of the lands in question, and the same can only be determined based upon a fact-finding enquiry. Without conducting any such enquiry, perhaps, the writ petitioners cannot be summarily ejected from the lands in question, considering the fact that they are in possession of the same for a very long time. Therefore, I preserve the liberty to the Revenue Administration of the State at Nellore to conduct a fact finding enquiry by providing a fair and reasonable opportunity to the writ petitioners to establish and prove their claim over the lands in question, and only if such enquiry reveals that the writ petitioners are not entitled to occupy the lands in question, can the State Administration seek to evict them, that too, after following the procedure prescribed by law. Without recourse to the procedure prescribed in law, the writ petitioners, however, cannot be evicted from the lands in question, which are said to be cultivated by them.

With these observations, the Writ Petition is disposed of. No costs.

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**24-11-2006**

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